



A GROUND BREAKING OPPORTUNITY TO INCREASE ACCESS FOR REGISTRATION OF COMMUNITY GROUPS IN DADAAB.



Ministerie van Buitenlandse Zaken

1.0 Background

Kenya has been hosting refugees and asylum-seekers for nearly three decades. Currently, the number of displaced persons is estimated at 539,766 refugees and asylum seekers Dadaab and Kakuma. In Dadaab, the estimated number of refugees and asylum seekers stands at 234,040 (49.1%M: 50.9%F).¹

In December 2018, Kenya was among the countries that affirmed the Comprehensive Refugee Response Framework (CRRF) and the Global Compact on Refugees (GCR) respectively. At the heart of the CRRF and the GCR is the idea that building refugees' self-reliance should be a consideration at the very beginning. When refugees gain access to education and labor markets, they are empowered to build their skills and become self-reliant, contributing to local economies and fueling the development of the communities hosting them. Allowing refugees to benefit from national services and integrating them into national development plans is essential for both refugees and the communities hosting them, and is consistent with the pledge to "leave no one behind" in the 2030 Agenda for Sustainable Development.²

Building self-reliance of displaced persons equips and prepares them to take advantage of durable solutions options including contributing to sustainable repatriation and local integration. Protection and durable solutions actors, play a crucial role in ensuring that self-reliance interventions strengthen the ability of governments and civil society to mobilize capacities and resources to intensify protection of and solutions for displaced persons. Their main responsibility is therefore to reinforce the response of national actors, when the scale of the needs surpasses local capacities and resources. Faced with large-scale displacement, states require support to strengthen and adjust national and local institutions to maintain levels of support and services, while at the same time upholding their international protection responsibilities.

Dwindling funding for protracted humanitarian responses and shifting focus to the more recent humanitarian crises around the world, means that, situations like Dadaab get less attention. As the dynamics shift from over-dependency on aid to emphasis on sustainable livelihoods, a majority of stakeholders recognize the need to support markets to aid the move from artificial and unsustainable assistance-based economy.³ In an effort towards achieving this objective, the Norwegian Refugee Council (NRC), organized a roundtable discussion, in coordination with the Department of Social Development (DSD), among other stakeholders including government representatives from the Department of Refugee Services (former Refugee Affairs Secretariat), the Deputy County Commissioner (DCC) and the Directorate of Criminal Investigation (DCI); and humanitarian organizations (including the Office of the United Nations High Commissioner for Refugees (UNHCR), Swiss Contact, Refugee Consortium of Kenya (RCK), and Xavier Project) from Dadaab and Kakuma in Nairobi on 12th September 2019. The roundtable dubbed 'Refugee Inclusion in Social Development' aimed to address barriers to registration of refugee-led groups including Self-Help Groups (SGH) and Community Based Organizations (CBO) as vehicles of socio-economic empowerment.

As a result of these discussions, in 2020, the Director of Social Development gave pre-registration guidelines that preceded the authorization of registration of integrated refugee-led Groups for refugees hosted in Turkana County -Kakuma Camp and Kalobeyei Settlement. This is a progressive move and a step towards promoting refugee inclusion in socio-economic development and there is a need for a Dadaab-specific response to address the continuing barrier to registration of community groups.

The COVID-19 pandemic and the restrictions put in place by the government forced many businesses (formal and informal) to close as some laid off staff. Consequently, as for many others, income streams for many refugees were greatly reduced. At the same time, international and local NGOs working with refugees had reduced their operations as many opted to work remotely. As a result, according to a report by Amnesty International, several refugees had no option but to reach out to community-based refugee led-organizations for support. So, in the absence of others, refugee-led initiatives responded to some of the protection, psychosocial and livelihood needs of refugees who were at heightened risk. Ironically this could be one of the positive long-lasting impacts of the pandemic – refugees themselves playing a bigger role in the decisions and actions needed to better realize their rights.⁴

¹UNHCR Kenya Statistics based on UNHCR's Refugee Registration System, progress as at 31st January, 2022. The number comprises of 479,978 (89%), refugees and 59,788 (11%) asylum seekers.

²UNHCR, 2018 'Comprehensive Refugee Response Framework-Delivering more comprehensive and predictable responses for Refugees' (<https://www.unhcr.org/comprehensive-refugee-response-framework-crrf.html>)

³Samuel Hall (2016) Rapid market assessment and value chain analysis in Kakuma, Kenya

⁴Amnesty International June 1, 2020 'Refugee-led initiatives are stepping up and need to be supported – during the pandemic and beyond' (<https://www.amnesty.org/en/latest/campaigns/2020/06/refugee-led-initiatives-are-stepping-up-and-need-to-be-supported-during-the-covid-19-response-and-beyond/>)

⁵<https://www.unhcr.org/news/press/2021/4/608af0754/joint-statement-government-kenya-united-nations-high-commissioner-refugees.html>

Refugee inclusion in business support services is limited; in part due to the directive by the Government towards the closure of camps - “the road map”⁵ and “the unpacking of Dadaab”⁶ but also as a result of the burdensome requirements for registration and acquisition of legal status to operate business entities for non-nationals, preventing many refugee-led start-ups from kicking off. Many are forced to include Kenyan nationals as partners, directors and members to be able to register as a community organization or self-help group with the relevant state ministry.⁷

This brief implores the relevant state actors to open up registration of refugee community groups (SHGs and CBOs) for refugees and asylum seekers in Dadaab and examines challenges experienced by refugees who seek registration of these groups. It targets humanitarians, development, and local actors, and aims to advocate and ensure that self-help groups’ registration practices help refugees to legally operate businesses that build refugee self-reliance.

Problem Statement

This policy brief seeks to address the following issues

I. Undeveloped regulatory framework:

The process of registration of refugee community groups in Dadaab is hindered by the lack of a directive or regulatory framework that authorizes the registration of refugee-led community groups. The directive from the Social Development Office in 2020 authorizing the registration of integrated refugee groups, only targeted refugees in Turkana West and urban Refugees in Nairobi.

II. Limited access to legal documentation

One of the pre-registration requirements by the Department Social Development is the refugee Identity card, which is not only unavailable to asylum seekers but highly bureaucratic to access by registered refugees, according to an assessment undertaken by NRC. From the foregoing, there is need for the DSD to recognize other official documentation unique to displaced populations to identify themselves such as the proof of registration documents.

III. Cost of registration and renewal

The registration charges for refugee-led group should be harmonized and equitably applied for all refugees in Kenya.

Legal, Policy and Regulatory Framework

Kenya is a signatory to international treaties applicable to refugees and asylum seekers including the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol which accords refugees the right to engage in wage-earning and self-employment.⁸ The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights guarantees men and women of all ages and backgrounds the right to work, live in dignity and become self-reliant.⁹

The 2018 Global Compact on Refugees (GCR) and the Comprehensive Refugee Response framework (CRRF) cement milestones for refugee protection as set out in the four objectives; 1) ease pressures on host countries, 2) enhance refugee self-reliance, 3) expand access to third country solutions and 4) support conditions in countries of origin for return in safety and dignity.

Regionally, the Intergovernmental Authority on Development (IGAD), of which Kenya is a member state, released the Nairobi Declaration on Durable Solutions for Somali Refugees in 2017 with the objective of delivering durable solutions, including through the promotion of self-reliance in the countries of asylum. In the Declaration, Member States committed to align domestic laws and policies in order to enable refugees to among other things access gainful employment and self-reliance.

Nationally, the Government of Kenya most recently promulgated the Refugee Act 2021 that took effect on 22nd February 2022. Section 28(4) of the Act provides that, refugees shall be enabled to contribute to the economic and social development of Kenya by facilitating access to, and issuance of, the required documentation at both levels of Government. Furthermore, Section 28(5), states ‘Subject to the laws applicable and taking into consideration the special circumstances of refugees, a refugee recognized under this Act shall have the right to engage individually or in a group, in gainful employment or enterprise or to practice a profession or trade where he holds qualifications recognized by competent authorities in Kenya’. The Refugee Act recognizes the contributions refugees are making towards socio-economic developments within the national and county Governments and has provided guidelines for the removal of legal barriers that hinder these developments. The Act highlights the importance of refugees’ access to legal documentation and public institutions including, Section 35 of the Act which provides that the

⁵<https://www.unhcr.org/ke/wp-content/uploads/sites/2/2020/04/Dadaab-March-2020-operational-Update-.pdf>

⁷Ibid 4

⁸Article 17 and 18 of the 1951 Refugee Convention

⁹Articles 23 (1) and 6 respectively

Commissioner shall liaise with the national and county governments for the purposes of ensuring that refugee matters are taken into consideration in the initiation and formulation of sustainable development and environmental plans.

Kenya currently lacks a clear legal framework on community group mobilization and registration. However, efforts towards enacting legislation to govern this is underway through the Community Groups Registration Bill, 2018. The bill intends to provide a regulatory framework for the mobilization, registration, coordination and application of community groups and for connected purposes. The Bill defines a “community group” as a voluntary association of individuals from the same community which is self-organized for a common purpose of improving the livelihood of the group members or for a community benefit and includes a special interest group, community project, community-based organization but shall not include groups formed to champion a political cause.

The formation, registration and governance of SHGs and CBOs currently falls within the mandate of the Department of Social Development under the Ministry of Labor and Social Protection. The mandate is derived from the Executive Order No. 1 of 2018 which also confers the Department of Social Development with powers to make policies on Social Development. The goal of the Department is to empower communities through mobilization, organization and building capacities especially the vulnerable groups to actively participate in socio-economic development.¹⁰

Comparative analysis of community group registration practices - Kenyans vs Refugees in Dadaab and displaced populations in Kakuma vs Dadaab

a) Group Registration for Kenyans in Dadaab (host community)

The Department of Social Development established an office in Dadaab with the mandate of providing registration of SHGs and CBOs and related administrative functions. Currently, members seeking registration of SHGs and CBOs are required to lodge their applications to the Social Development Officer (SDO) in Dadaab. The officer guides the members on the requirements of forming a group, and offers application forms that need to be filled.¹¹ The group has to be recommended by the area chief or the location/division Social Development Volunteer and approved by the county or sub-county Social Development Officer. Upon approval a group certificate is issued within 14 working days which is renewed annually. The groups are obligated to submit quarterly progress reports and allow accessibility of records to the registering authority upon request. Failure to comply with the aforementioned requirements may lead to non-registration and/or deregistration.



Registration Form Particulars

The contents of the application form include information pertaining to basic Information of the group (Name of group, location/contact), type of the Group -for example; youth, persons with disability, women, management Committee - officials of the group (Secretary, Treasurer and Chairperson), objectives of the Group, activities of the group.

The process above is clearly defined for the host community in Dadaab unlike their counterparts, refugees, who face bureaucratic, unclear and unprocedural process in registering groups.

b. Registration of Refugee-Led Groups in Kakuma

In 2020, Turkana County was one of the counties identified as a pilot geographical location for the registration of integrated self-help groups for refugees. The DSD set pre- conditions for the issuance of a certificate to the refugee group including;

- a) **Pre-registration training of individuals intending to form a group conducted by Social Development Office;**
- b) **Formation of a verification committee led by the Deputy County Commissioner- multi-agency to include humanitarian agencies and government representation; and**
- c) **Publication of registration forms to be signed by the Department of Refugee Services and Chair of the verification committee to ensure legitimacy of the groups.**

¹⁰User, S. (2018). Social Development. (<http://www.socialprotection.go.ke>)

¹¹The forms have to be signed by the Chairperson, secretary and Treasurer of the groups. (<https://www.socialprotection.go.ke/social-development-downloads/>)

The relevant actors in Kakuma have put in place the registration guidelines and developed terms of reference for the verification committee.¹²

These stakeholders or equivalent agencies are also based in Dadaab, making it possible for the adoption of a similar process for refugees in Dadaab to ensure their inclusion to social and economic development.

Key Messages

Displacement Affected Communities (DACs) in Dadaab view the restriction on refugee-led group registration as a major issue that hinders their capability to diversify their access to livelihood options, and one that requires the attention of the Kenyan Government. This brief, having highlighted the contextual barriers to community group registration for displaced populations in Dadaab propagates key messages to address the existing barriers through a consultative process that remains alert to the contextual and practical sensitivities of wider inclusion or these populations in social development.

I. Enact strong legal, policy and regulatory frameworks

Policy development and reform processes should increasingly consider minority groups such as the displaced population in Kenya as a specific population of interest. The protracted stay of displaced populations in Kenya and the growing efforts towards socio-economic inclusion of refugees requires increased awareness creation among county and national players in matters affecting refugees, in line with existing International and National frameworks. The community Bill for example does not expressly mention refugees as individuals who can form groups however subsequent policies and regulations should be inclusive on refugee matters.

ii Coordination

An effective use of knowledge in the policy-making process requires appropriate mechanisms for dialogue and co-ordination at both levels of government, humanitarian organizations as well as across public and private spheres. Monitoring and evaluation mechanisms need to be strengthened to ensure policy learning is used even after the bill is passed into law. Appropriate dialogue and coordination mechanisms among affected communities, state and non-state actors effectively influences policy-making processes.

iii Advocacy

Apply joint advocacy measures in advancing refugee matters with both levels of government to improve self-reliance among displaced communities in Kenya.

As a result, the policy proposes the following actions to be considered by key stakeholders:

The National Government through the State Department of Social Protection:

- a. Application of the guidelines or procedures adopted in Turkana West and Nairobi regarding formation and registration of refugee Self-Help Groups/ Community based organization as set by the Social Development Department for the Dadaab population; and
- b. Allow refugee community groups to present the proof of registration (manifest) as a recognized identity document, where individuals do not possess refugee identity card.

Non-Governmental Organizations:

- a. Strengthen synergies between humanitarian organizations, the private sector and state actors in ensuring integration of refugees in socio-economic development; and
- b. Advocate for refugee self-reliance to ensure sustained engagement with policy bearers to influence the inclusion of refugees in national and county government plans and policy processes.

Garissa County Government

- a. Advocate for the registration of refugee-led groups in Dadaab to promote self-reliance;
- b. Formulate and enact favorable laws for refugee entrepreneurs at county level to enhance sustainability; and
- c. Include refugees in county integrated development plans at the county level

Development Partners and Donors

- a. Investing and fund activities related to self-reliance and inclusion of refugees into developmental sectors; and
- b. Increasingly support efforts that improve the humanitarian-development nexus.

¹²The verification committee in Kakuma is composed of; office of the Deputy County Commissioner, Office of Social Development, Camp Manager Department of Refugee Services (DRS), Representative of the UNHCR, I/NGOs present at the meeting as follows: - Norwegian Refugee Council, Refugee Consortium of Kenya, Lutheran World Foundation

ADDITIONAL RESOURCES

Refuge Point: Supporting Refugee-Led Organizations

Xavier Project: Why RLOs are the best problem-solvers for their communities
RSC Research in Brief 10, Refugees as Providers of Protection and Assistance

For more information on this brief kindly contact:

Safo Hadija Ahmed, ICLA Coordinator

Email: Safo.ahmed@nrc.no

Fatuma Hifthi Mohamed, ICLA Officer

Email: Fatuma.mohamed@nrc.no

For any other information on Information, Counselling and Legal Assistance (ICLA).
Nyaruiru Ndungi

Email: Nyaruiru.ndungi@nrc.no

Website: <https://www.nrc.no/>



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